

OLC 78-0451

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FOIA  
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NFAC-161-78

13 JAN 1978

MEMORANDUM FOR: George L. Cary  
Legislative Counsel

FROM : Sayre Stevens  
Deputy Director, National Foreign  
Assessment Center

SUBJECT : NFAC Comments Concerning Amendments  
to the Freedom of Information Act

REFERENCE : Your Memorandum, dated 30 December  
1977, Same Subject (OL 77-5748)

1. In general, NFAC is supportive of the concepts of the Freedom of Information Act. To date the manhours devoted to servicing FOIA and related requests have not been of a scale to disrupt significantly the intelligence production activities of any NFAC component. Nevertheless, no resources have been provided for FOIA and related activities and all such efforts detract from the basic tasks. Statistics for the year 1977 reflect a significant upward swing over the previous year in the number of FOIA and related requests -- more than 60 percent increase in 1977 compared with 1976 -- being levied on the Agency. This trend holds the distinct probability that NFAC assets will be increasingly diverted from intelligence production activities to handling requests from the public.

2. Having wrestled with FOIA requests for the past several years, NFAC components have surfaced a number of problem areas that can only be resolved by amending or clarifying the existing act. Of particular concern is the matter addressed in a memorandum from the Chief, NFAC Coordination Staff which can be found at Tab A. To be sure, the problem of trust of foreign governments in US secrecy agreements stems more from the climate of the times than it

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does from the act itself. Nevertheless, it is a matter of considerable concern to the Center and steps should be taken to alleviate the fears and apprehensions of the foreign intelligence services on whom we depend for information not readily available from other sources and at relatively small cost.

3. The existing climate has also had a negative effect on the ability of CIA to negotiate mutually beneficial contracts with academia. At Tab B is a summary of specifics documenting the impact of FOIA disclosures on our Office of Scientific Intelligence.

4. Other problem areas where relief is sought include:

- No Nationality Restriction

Adding to the request burden are an increasing number of requests from foreign individuals including students and members of the press. Likewise, requests from foreign companies, corporations and institutions seem to be increasing. The US taxpayer bears the cost of such inquiries.

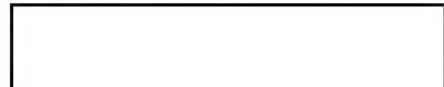
- Definition of Reasonable Request

The present law is too loose on what constitutes a reasonable request. Many requesters want information and research, not documents. Students (as well as the press) use the law to avoid basic research that ought to be a part of their educational process. The burden of matching the relevant document(s) to the request for information falls on the component handling the search. Corporations, in particular, use the law to fish for possibilities of legal actions against other corporations or the federal government itself.

- Fees

The existing schedule of fees that can be charged for search and reproduction should be revised. To charge only \$8 for

an hour of professional time is ridiculous. Also, the Agency should be allowed to take a more stringent approach in deciding when to charge. A revised FOIA law should more clearly define "Public Interest." In any case, the major part of the costs of FOIA actions are in the review of the security classifications rather than in finding and duplicating a specific document. The Congress should at least realize this fact even if the law remains unchanged.



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Sayre Stevens

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5 January 1978

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MEMORANDUM FOR: [REDACTED]  
NFAC Freedom of Information Officer

FROM : [REDACTED] 25X1  
Chief, NFAC Coordination Staff

SUBJECT : Effect of FOIA

1. The foreign intelligence services that deal with NFAC are extremely concerned about the detrimental effect of FOIA on their exchange of intelligence with the U.S.

2. We receive highly valuable intelligence from certain close allies. This sometimes includes very sensitive privileged information, such as intelligence from their own sensitive sources, intelligence on another ally, or information on their own government's policy. Obviously FOIA has the effect of raising, in the minds of cooperating foreign liaison officers, strong doubts as to whether the U.S. will or can keep this confidence.

3. In recent years the doubts these officers hold about the U.S. ability to keep confidences have been fed by their concern over:

a. the increasing bureaucratization and rapid growth of the U.S. intelligence community,

b. the frequent "leaks", particularly from the Pentagon,

c. the FOIA legislation,

d. the congressional investigations and resulting disclosures,

e. the current trend toward bringing intelligence information out into the open.

4. These trends, and particularly the advent of FOIA, have caused the foreign intelligence organizations to look for ways to protect the sensitive

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SUBJECT: Effect of FOIA

intelligence they pass to us. They append new controls, for example a statement that "this information is the property of the government of X, is given to the U.S. intelligence community only for its use; any declassification can be done only with the permission of the government of X." Each of the Commonwealth countries has also devised its own method for protecting information. Most use the control "stamp." One, however, went to the opposite extreme -- removing all references to the country (Australia) on all diplomatic cables passed to us.

5. The foreign liaison officials are aware that there are currently efforts underway to draft a new Executive Order on secrecy in government. They obviously hope that there will be a clear provision in this new E. O. to protect -- to exempt from automatic release or downgrading -- the information which is received from foreign governments.

6. But, beyond this, there is evidence that these liaison officials have cut back on the sort of sensitive information which they have given to us in previous years, because they are unwilling to risk its compromise.

7. We have some specific examples, although obviously it is difficult to cite information that one is not receiving.

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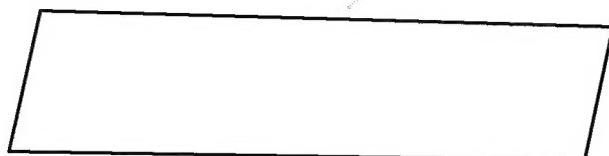
liaison officers copies of [redacted] 25X1 developments in key areas around the world. These reports effectively complement our own U.S. reporting. We believe that, in recent years, nervousness over possible compromise has caused these officers to cut out some of the more sensitive reporting in the categories alluded to above -- sensitive sources, reporting on allies, and policy-related topics. We used to receive some reporting, for example, on EEC developments and on some other Western European political developments which we now seldom see. In other cases, information of this nature is deleted from cables that we do receive.

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8. We believe that the DDO should have many more specific examples of friendly liaison services cutting back in their passing of reports from sensitive clandestine sources.



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 CONFIDENTIAL SECRET

## ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Sayre Stevens  
Deputy Director, NFAC

EXTENSION

NO.

DATE

TO: (Officer designation, room number, and building)

DATE

RECEIVED FORWARDER

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. George L. Cary  
OLC

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Take EW-1 Amber